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October 14, 2021

VIA ECFHonorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

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counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).¹

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

II. Telephonic Contact

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

A. MCC

According to the information received from the Federal Defenders, MCC scheduled two calls between October 7 and October 13.² All calls were completed.

B. MDC

According to the information received from the parties, MDC scheduled 146 calls between October 7 and October 13.³ 93 calls were completed, three calls were attempted,⁴ one call was not completed because phone number was incorrect, 15 calls we are unaware of their outcome,⁵ 27 calls were not completed due to an institutional emergency that occurred on Wednesday, October 13, and seven calls were not completed for unknown reasons. We are working with the parties to gather more information about these calls. Additionally, Federal Defenders report some technical and scheduling issues this week.

¹ I held a joint mediation call with the parties on Tuesday, October 12, 2021.

² We did not receive data from the MCC for this week.

³ We did not receive data from the MDC for Monday October 11, 2021; Tuesday, October 12, 2021; and Wednesday, October 13, 2021.

⁴ Federal Defenders reported one of these calls as completed.

⁵ We did not receive data from the MDC for Monday October 11, 2021; Tuesday, October 12, 2021; and Wednesday, October 13, 2021. These calls were reported by the Federal Defenders but their resolution is undetermined.

The MDC reported one urgent call request on October 8 that was facilitated and completed the following day.

III. Videoconferencing

A. MCC

According to the information received from the Federal Defenders, MCC scheduled three videoconferences between October 7 and October 14.⁶ Two VTCs were completed and one VTC was not completed for an unknown reason.

B. MDC

According to the information received from the parties, MDC scheduled 52 videoconferences between October 7 and October 14.⁷ 27 VTCs were completed, one VTC was not completed because the inmate was transferred to a new floor,⁸ three VTCs we are unaware of their outcome,⁹ 15 VTCs were cancelled due to an institutional emergency that occurred on Wednesday, October 13, and 5 VTCs were not completed for unknown reasons.¹⁰ We are working with the parties to gather more information about these VTCs. Additionally, Federal Defenders report some technical and scheduling issues this week.

IV. Closure of MCC and In Person Visiting

I continue to join the weekly BOP – District Executive calls to discuss the impending closure of the MCC. The BOP has provided information regarding the imminent conclusion of the transfer of inmates as well as updates on staffing issues. I have been able to discuss these issues with the parties in mediation.

I also continue to work with the parties on issues surrounding in person visiting, such as increased wait times and incorrect mask usage by staff. We are also

⁶ We did not receive data from the MCC for this week.

⁷ We did not receive data from the MDC for Monday October 11, 2021; Tuesday, October 12, 2021; and Wednesday, October 13, 2021.

⁸ Federal Defenders noted that they were informed by the MDC that the inmate was transferred and provided with a new number to call to schedule the VTC, but that they were unsuccessful in re-scheduling.

⁹ We did not receive data from the MDC for Monday October 11, 2021; Tuesday, October 12, 2021; and Wednesday, October 13, 2021. These VTCs were reported by the Federal Defenders but their resolution is undetermined.

¹⁰ MDC reported one of these calls as completed.

discussing the issues surrounding usage of the law library and inmates' ability to review case materials, with both parties focused on practical solutions to these issues.

Respectfully,

/s/ Loretta E. Lynch
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink
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